

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

DEVON ADDISON BLANCHARD,)	
)	
	Plaintiff,	
v.)	Case No. CIV-08-979-M
)	
LARRY HILL, <i>et al.</i> ,)	
)	
	Defendants.	

REPORT AND RECOMMENDATION

Plaintiff, appearing *pro se*, has submitted to this Court for filing a civil rights complaint pursuant to 42 U.S.C. §1983 alleging violations of his constitutional rights.

At the time of filing, Plaintiff neither paid the required filing fee nor submitted a motion for leave to proceed *in forma pauperis*, contrary to Local Civil Rules 3.2 and 3.3. Consequently, an Order was entered on September 18, 2008, giving Plaintiff until October 6, 2008, to cure the deficiencies.

On October 10, 2008, rather than recommending dismissal of the action for failure to comply with the Court's Order, the Court *sua sponte* gave Plaintiff additional time until October 28, 2008, in which to cure his deficiencies. Plaintiff was advised that failure to comply with the terms of the Order could result in dismissal of this action without prejudice to refiling.

As of this date, Plaintiff has not paid the filing fee, filed a motion for leave to proceed *in forma pauperis* or requested an extension of time to do so. Under these circumstances, it is recommended that the action be dismissed without prejudice to the filing of a new action. See LCvR3.2 and 3.3.

NOTICE OF RIGHT TO OBJECT

Plaintiff is advised of his right to object to this Report and Recommendation. *See* 28 U.S.C. § 636. Any objections must be filed with the Clerk of the District Court by December 9th, 2008. *See* LCvR72.1. Plaintiff is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

STATUS OF REFERRAL

This Report and Recommendation disposes of all issues referred by the District Judge in this matter.

ENTERED this 19th day of November, 2008.



VALERIE K. COUCH
UNITED STATES MAGISTRATE JUDGE